conflicts, such as World War II, when our military was many times larger than today, is inevitably declining.

The net result of these changes is that the percentage of the entire population that has served in the Armed Forces is dropping rapidly, a change that can be seen in all segments of society. Whereas during World War II it was extremely uncommon to find a family in America that did not have one of its members on active duty, now there are numerous families that include no military veterans at all. Even though the Iraqi war has been prominently discussed on television and in the newspapers, many of our children are much more preoccupied with the usual concerns of young people than with keeping up with the events of the day. As a consequence, many of our youth still have little or no connection with or knowledge about the important historical and ongoing role of men and women who have served in the military. This omission seems to have persisted despite ongoing educational efforts by the Department of Veterans Affairs and the veterans service organizations.

This lack of understanding about military veterans' important role in our society can have potentially serious repercussions. In our country, civilian control of the Armed Forces is the key tenet of military governance. A citizenry that is oblivious to the capabilities and limitations of the armed forces, and to its critical role throughout our history, can make decisions that have unexpected and unwanted consequences. Even more important, general recognition of the importance of those individual character traits that are essential for military success, such as patriotism, selflessness, sacrifice, and heroism, is vital to maintaining these key aspects of citizenship in the armed forces and even throughout the population at large.

The failure of our children to understand why a military is important, why our society continues to depend on it for ultimate survival, and why a successful military requires integrity and sacrifice, will have predictable consequences as these youngsters become of voting age. Even though military service is a responsibility that is no longer shared by a large segment of the population, as it has been in the past, knowledge of the contributions of those who have served in the Armed Forces is as important as it has ever been. To the extent that many of us will not have the opportunity to serve our country in uniform, we must still remain cognizant of our responsibility as citizens to fulfill the obligations we owe, both tangible and intangible, to those who do serve and who do sacrifice on our behalf.

The importance of this issue was brought home to me three years ago by Samuel I. Cashdollar, who was then a 13-year-old seventh grader at Lewes Middle School in Lewes, DE. Samuel won the Delaware VFW's Youth Essay Contest that year with a powerful presentation titled ''How Should We Honor America's Veterans?'' Samuel's essay pointed out that we have Nurses' Week, Secretaries' Week, and Teachers' Week, to rightly emphasize the importance of these occupations, but the contributions of those in uniform tend to be overlooked. We don't want our children growing up to think that Veterans Day has simply become a synonym for department store sale, and we don't want to become a nation where more high school seniors recognize the name Britney Spears than the name Dwight Eisenhower.

National Veterans Awareness Week complements Veterans Day by focusing on education as well as commemoration, on the contributions of the many in addition to the heroism and service of the individual. National Veterans Awareness Week also presents an opportunity to remind ourselves of the contributions and sacrifices of those who have served in peacetime as well as in conflict; both groups work unending hours and spend long periods away from their families under conditions of great discomfort so that we all can live in a land of freedom and plenty.

Last year, my Resolution designating National Veterans Awareness Week had 55 cosponsors and was approved in the Senate by unanimous consent. Responding to that resolution, President Bush issued a proclamation urging our citizenry to observe National Veterans Awareness Week. I ask my colleagues to continue this trend of support for our veterans by endorsing this resolution again this year. Our children and our children's children will need to be well informed about what veterans have accomplished in order to make appropriate decisions as they confront the numerous worldwide challenges that they are sure to face in the future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1410. Mr. BINGAMAN proposed an amendment to amendment SA 1386 proposed by Mr. BOND (for himself, Mr. LEVIN, Mr. DOMENICI, and Ms. STABENOW) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 1411. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1412. Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON, of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) proposed an amendment to the bill S. 14, supra.

SA 1413. Mr. BINGAMAN proposed an amendment to the bill S. 14, supra.

SA 1414. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1415. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1416. Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1417. Mr. DAYTON (for himself, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1418. Mr. BINGAMAN proposed an amendment to the bill S. 14, supra.

SA 1410. Mr. BINGAMAN proposed an amendment to amendment SA 1386 proposed by Mr. BOND (for himself, Mr. LEVIN, Mr. DOMENICI, and Ms. STABENOW) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 5, strike lines 14 through 18 and insert the following:

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end the following: '', or such other number as the Secretary prescribes under subsection (c)''; and

(2) in subsection (c)(2), by striking ''The procedures of section 551'' and all that follows and inserting the following: ''The amendment shall be considered to be a major rule that is subject to chapter 8 of title 5, United States Code (relating to congressional review of agency rulemaking).''.

SA. 1411. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, between lines 7 and 8, insert the following:

SEC. 712. AVERAGE FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS

(a) IN GENERAL.—Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' after ''AUTOMOBILES.—''; and

(2) by adding at the end the following new paragraph:

''(2) The average fuel economy standard for pickup trucks manufactured by a manufacturer in a model year after model year 2005 shall be 20.7 miles per gallon. No average fuel economy standard prescribed under another provision of this section shall apply to pickup trucks.''.

(b) DEFINITION OF PICKUP TRUCK.—Section 32901(a) of such title is amended by adding at the end the following new paragraph:

''(17) 'pickup truck' has the meaning given that term in regulations prescribed by the Secretary for the administration of this chapter, as such regulations are in effect on January 1, 2003, except that such term shall also include any additional vehicle that the Secretary defines as a pickup truck in regulations prescribed for the administration of this chapter after such date.''.

SA 1412. Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWKSI, Mr. CAMPBELL, Mr. SMITH,

Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Beginning on page 405, strike line 18 and all that follows through page 467, line 16, and insert the following:

TITLE XI—ELECTRICITY

SEC. 1101. DEFINITIONS.

(a) ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

''(22) 'electric utility' means any person or Federal or State agency (including any entity described in section 201(f)) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency;''.

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

''(23) 'transmitting utility' means an entity, including any entity described in section 201(f), that owns or operates facilities used for the transmission of electric energy—

''(A) in interstate commerce; or

''(B) for the sale of electric energy at wholesale;''.

(c) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by adding at the end the following:

''(26) 'unregulated transmitting utility' means an entity that—

''(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

''(B) is an entity described in section 201(f);

''(27) 'electric cooperative' means a cooperatively owned electric utility;

''(28) 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities; and

''(29) 'Independent System Operator' or 'ISO' means an entity used for the transmission of electric energy and which has been approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities.''.

(d) ADDITIONAL MODIFICATIONS.—

(1) Section 201(b)(2) of the Federal Power Act (16 U.S.C. 824(b)(2)) is amended by striking ''The'' the first time it appears and inserting, ''Notwithstanding section 201(f), the''.

(2) Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after ''political subdivision of a state,'' ''an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or sells less than 4,000,000 megawatt hours of electricity per year,''.

(e) For the purposes of this title, the term ''Commission'' means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

(a) Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''ELECTRIC RELIABILITY

''SEC. 215. (a) For the purposes of this section:

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c), the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to such components to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such components or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the components of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulkpower system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the portion of the system within their control.

''(6) The term 'transmission organization' means an RTO or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section. The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) Following the issuance of a Commission rule under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (d)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

''(d)(1) The ERO shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the ERO for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the ERO to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this Part; and

''(C) the ordered change becomes effective under this Part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e)(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if

the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board;

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) The ERO shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i)(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

''(4) Within 90 days of the application of the ERO or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the ERO, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region; whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest; whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest, and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) The provisions of this section do not apply to Alaska or Hawaii.''.

(b) The electric reliability organization certified by the Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e) of the Federal Power Act are not departments, agencies, or instrumentalities of the United States Government.

Subtitle B—Regional Markets

SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.

The Commission's proposed rulemaking entitled ''Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design'' (Docket No. RM01–12000) is remanded to the Commission for reconsideration. No final rule pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before July 1, 2005. Any final rule issued by the Commission pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, shall be preceded by a notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of independently administered Regional Transmission Organizations (''RTO'') that have operational or functional control of facilities used for the transmission of electric energy in interstate commerce and do not own or have a financial interest in generation facilities used to supply electric energy for sale at wholesale.

SEC. 1123. PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

Nothing in this Act authorizes the Commission to require a transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.

SEC. 1124. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section:

(1) The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—

(1) The appropriate Federal regulatory authority is authorized to enter into a contract, agreement, or other arrangement transferring control and use of all or part of the Federal utility's transmission system to a Regional Transmission Organization

(''RTO''), as defined in the Federal Power Act. Such contract, agreement or arrangement shall be voluntary and include—

(A) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement, or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(B) provisions for monitoring and oversight by the Federal utility of the RTO fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the RTO or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(C) a provision that allows the Federal utility to withdraw from the RTO and terminate the contract, agreement, or other arrangement in accordance with its terms.

(2) Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO shall serve to confer upon the Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) Any statutory provision requiring or authorizing a Federal utility to transmit electric power, or to construct, operate, or maintain its transmission system shall not be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

SEC. 1125. REGIONAL CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.

(a) STATE REGULATORY AUTHORITIES.—Not later than 90 days after the date of enactment of this Act, the Commission shall convene regional discussions with State regulatory authorities, as defined in section 3(21) of the Federal Power Act. The regional discussions should address whether wholesale electric markets in each region are working effectively to provide reliable service to electric consumers in the region at the lowest reasonable cost. Priority should be given to discussions in regions that do not have, as of the date of enactment of this Act, a Regional Transmission Organization (''RTO'') or an Independent System Operator (''ISO''), as defined in the Federal Power Act. The regional discussions shall consider—

(1) the need for an RTO or other organizations in the region to provide nondiscriminatory transmission access and generation interconnection;

(2) a process for regional planning of transmission facilities with State regulatory authority participation and for consideration of multi-state projects;

(3) a means for ensuring that costs for all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonable and economically efficient;

(4) a means for ensuring that all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), within the region maintain their ability to use the existing transmission system without incurring unreasonable additional costs in order to expand the transmission system for new customers;

(5) whether the integrated transmission and electric power supply system can and should be operated in a manner that schedules and economically prioritizes all available electric generation resources, so as to minimize the costs of electric energy to all consumers (''economic dispatch'') and maintain system reliability;

(6) a means to provide transparent price signals to promote proper location and utilization of generation and the efficient expansion of transmission in a manner that does not result in collection of transmission rents that do not relieve congestion;

(7) eliminating in a reasonable manner, consistent with applicable State and Federal law, multiple, cumulative charges for transmission service across successive locations within a region (''pancaked rates'');

(8) resolution of seams issues with neighboring regions and inter-regional coordination;

(9) a means of providing information electronically to potential users of the transmission system;

(10) implementation of a market monitor for the region with State regulatory authority and Commission oversight and establishment of rules and procedures that ensure that State regulatory authorities are provided access to market information and that provides for expedited consideration by the Commission of any complaints concerning exercise of market power and the operation of wholesale markets;

(11) a process by which to phase-in any proposed RTO or other organization designated to provide non-discriminatory transmission access, including the formulation of transmission pricing methodologies, so as to best meet the needs of a region, and, if relevant, shall take into account the special circumstances that may be found in the Western Interconnection related to the existence of transmission congestion, the existence of significant hydroelectric capacity, the participation of unregulated transmitting utilities, and the distances between generation and load;

(12) the need to submit regional studies, within one year of enactment of this Act, to the Commission outlining possible methodologies that will ensure that the amount of energy produced in any region will be equal to at least 50 percent of the amount of energy consumed in that region by 2013;

(13) the potential value of developing a uniform system-wide average rate for transmission pricing as a way to enhance the efficiency and reliability of the transmission grid; and

(14) a timetable to meet the objectives of this section.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report to Congress on the progress made in addressing the issues in subsection (a) of this section in discussions with the States.

(c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and State or other retail regulatory authorities that are on-going prior to enactment of this Act.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SERVICE OBLIGATION SECURITY AND PARITY

''SEC. 216. (a)(1) Any load-serving entity that, as of the date of enactment of this section—

''(A) owns generation facilities, markets the output of federal generation facilities, or holds rights under one or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

''(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights, or, at its election, equivalent tradeable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

''(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradeable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradeable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

''(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

''(b) Nothing in this section shall affect any methodology, approved by the Commission prior to the date of enactment of this section, for the allocation of transmission rights by an RTO or ISO that has been authorized by the Commission to allocate transmission rights.

''(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

''(d) Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection.

''(e) For purposes of this section:

''(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through one or more additional State utilities or electric cooperatives, provides electric service to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

''(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

''(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of

any one or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power.

''(5) A transmitting utility that is a water district or water agency to which section 201(f) applies and that has a right under state law to provide water shall be treated as a load-serving entity. Such water district or water agency's right to provide water should be treated as a service obligation.

''(f) Nothing in the section shall apply to an entity located in an area referred to in section 212(k)(2)(A).

''(g) This section does not authorize the Commission to take any action not otherwise within its jurisdiction under other provisions of this Act.''

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

''SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(b) The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that

''(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(c) The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(d) if an unregulated transmitting utility exempted pursuant to subsection (b) no longer meets any of the criteria for exemption, the exemption shall expire.

''(e) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(f) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(g) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(h) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(i) Nothing in this Act authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission approved organization designated to provide non-discriminatory transmission access.''.

SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''PARTICIPANT FUNDING

''SEC. 217. (a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations establishing transmission pricing policies applicable to all public utilities associated with the construction of new interstate transmission facilities and expansion, modification, or upgrading of existing interstate transmission facilities (''transmission expansion'').

''(b) CONTENTS.—Consistent with section 205, the regulation under subsection (a) shall, to the maximum extent practicable—

''(1) promote economic capital investment in efficient transmission systems;

''(2) encourage the construction and use of transmission facilities and generation facilities that reduce risk and provide just and reasonable rates to consumers;

''(3) encourage improved operation of generation and transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks; and

''(4) ensure that the costs of any transmission expansion are assigned or allocated in a fair manner, meaning that those who benefit from the transmission expansion pay an appropriate share of the associated costs.

''(c) PLAN.

''(1) IN GENERAL.—An RTO or ISO may submit to the Commission a plan containing the criteria for determining the person or persons who will be required to pay for any transmission expansion. Nothing herein diminishes or alters the rights of individual members of an RTO or ISO under the Act.

''(2) REQUIREMENTS.—The Commission shall approve a plan submitted under paragraph (1) if the Commission determines that the plan—

''(A) meets all the requirements of this Act and is consistent with the regulation promulgated under subsection (a);

''(B) specifies the method or methods by which costs may be allocated or assigned. Such methods may include, but are not limited to:

''(i) directly assigned;

''(ii) participant funded; or

''(iii) rolled into regional or sub-regional rates; and

''(C) ensures that the party or parties who pay for facilities necessary for the transmission expansion receive appropriate compensation for those facilities, considering among other factors the economic benefits associated with the transmission expansion.

''(3) DEFERENCE.—In exercising its jurisdiction under this section, the Commission shall give substantial deference to the comments filed with the Commission by State regulatory authorities, other appropriate State officials, and stakeholders of the RTO or ISO.

''(4) EFFECT OF SECTION.—Nothing in this section shall affect an RTO or ISO's allocation methodology for transmission expansion approved by the Commission prior to the date of enactment of this section.''.

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(11) NET METERING.—

''(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.''.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

''(i) NET METERING.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning net metering established by section III (d)(11), the term net metering service shall mean a service provided in accordance with the following standards:

''(1) An electric utility—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with reasonable metering practices.

''(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

''(4) If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

''(7) For purposes of this subsection—

''(A) The term 'eligible on-site generating facility' means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less

that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

''(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

''(C) The term 'high efficiency system' means fuel cells or combined heat and power.

''(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''.

SEC. 1142. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(12) TIME-BASED METERING AND COMMUNICATIONS.—

''(A) Each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance in the costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

''(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

''(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

''(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis and may change as often as hourly.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

''(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 12 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(I) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(j) TIME-BASED METERING AND COMMUNICATIONS.—Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2003, providing the Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2005.

''(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

''(1) It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

''(2) The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

''(A) identifying the areas with the greatest demand response potential;

''(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response; and

''(C) developing plans and programs to use demand response to respond to peak demand or emergency needs.

''(3) Not later than 1 year after the date of enactment of the Energy Policy Act of 2003, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

''(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

''(B) existing demand response programs and time-based rate programs;

''(C) the annual resource contribution of demand resources;

''(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

''(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

''(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated.''.

SEC. 1143. ADOPTION OF ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

''(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

''(7) No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

''(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(9) Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.''.

(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

''(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.''.

SEC. 1144. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

''(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as determined appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).''.

SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

''(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and

(ii) wholesale markets for longterm sales of capacity and electric energy; or

''(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and

''(ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

''(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

''(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—

''(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

''(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

''(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

''(ii) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

''(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

''(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

''(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

''(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

''(B) the electric utility is not required by State law to sell electric energy in its service territory.

''(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

''(7) RECOVERY OF COSTS.—

''(A) The Commission shall promulgate and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

''(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791 a et seq.).

''(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—

''(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure

''(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

''(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility; and

''(iii) continuing progress in the development of efficient electric energy generating technology.

''(B) The rule promulgated pursuant to section (n)(1)(A) shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in section (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

''(2) RULES FOR EXISTING FACILITIES.—Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

''(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

''(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe.''.

(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

''(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.''.

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

This subtitle may be cited as the ''Public Utility Holding Company Act of 2003.''

SEC. 1151. DEFINITIONS.

For the purposes of this subtitle:

(1) The term ''affiliate'' of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale)

of natural or manufactured gas for heat, light, or power.

(8) The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term ''person'' means an individual or company.

(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ''public-utility company'' means an electric utility company or a gas utility company.

(15) The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public-utility companies.

(16) The term ''subsidiary company'' of a holding company means

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1152. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 1153. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1154. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1155. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this title, the Commission shall promulgate a final rule to exempt from the requirements of section 1153 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public-utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public-utility company, the Commission shall exempt such person or transaction from the requirements of section 1153.

SEC. 1156. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company, public utility, or natural gas company from an associate company.

SEC. 1157. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

SEC. 1158. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1159. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1160. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 1161. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this title, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1162. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred

from the Securities and Exchange Commission to the Commission.

SEC. 1163. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this title.

SEC. 1164. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

Subtitle F—Market Transparency, Anti-Manipulation and Enforcement

SEC. 1171. MARKET TRANSPARENCY RULES.

Part 11 of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''MARKET TRANSPARENCY RULES

''SEC. 218. (a) Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f).

''(b) The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A). In determining the information to be made available under this section and time to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

''(c) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission.''.

SEC. 1172. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''PROHIBITION ON FILING FALSE INFORMATION

''SEC. 219. It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f) knowingly and willfully to report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

''PROHIBITION ON ROUND TRIP TRADING

''SEC. 220. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f) knowingly and willfully to enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

''(b) For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.''.

SEC. 1173. MARKET TRANSPARENCY.

(a) IN GENERAL.—It shall be a violation of the Commodity Exchange Act (7 U.S.C. 1 et seq.) for a person or entity to knowingly report or manipulate any information relating to the price, quantity, sale or purchase, and counter party of any agreement, contract or transaction related to natural gas or electricity in interstate commerce, which the person or entity knew to be false at the time of reporting to any governmental entity or any person or entity engaged in the business of collecting and disseminating information.

(b) CLARIFICATION OF EXISTING CFTC AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by designating subsection (f) as subsection (e), and adding:

''(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil action as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2). This applies to any action pending on or commenced after the date of enactment of the Energy Policy Act of 2003.''.

(c) FRAUD AUTHORITY.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for any person, directly or indirectly in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement contract, or transaction subject to regulation or this Act—

''(1) to cheat or defraud or attempt to cheat or defraud any person;

''(2) to willfully make or cause to be made to any person any false report or statement, or to willfully enter or cause to be entered for any person any false record;

''(3) to willfully deceive or attempt to deceive any person by any means whatsoever; or

''(4) except as permitted in written rules of a designated contract market or registered derivative transaction execution facility which the agreement, contract, or transaction is traded and executed—

''(A) to bucket an order;

''(B) to fill an order by offsetting against 1 or more orders of another person; or

''(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of such person, to become—

''(i) the buyer with respect to any selling order of the person; or

''(ii) the seller with respect to any buying order of the person.''.

(d) TECHNICAL CORRECTIONS.—Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) is amended by adding at the end the following:

''Any request by any Federal, State or foreign government department, agency, or political subdivision, or foreign futures authority, for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas and electricity) within the exclusive jurisdiction of the Commission shall be directed to the Commission.''.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Commission for fiscal year 2004 such sums as may be necessary to carry out the additional responsibilities and obligations of the Commission under this section.

SEC. 1174. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting ''electric utility,'' after ''Any person,''; and

(2) inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting ''or transmitting utility'' after ''any person'' in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''Any person,'' in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years''; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

SEC. 1175. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking ''the date 60-days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) striking ''60 days after'' in the third sentence and inserting ''of'';

(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''; and

(4) striking the fifth sentence and inserting the following: ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding

pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.''.

Subtitle G—Consumer Protections

SEC. 1181. ELECTRIC UTILITY MERGERS.

(a) Section 203(a) of the Federal Power Act (16 U.S.C. 824(b)) is amended to read as follows:

''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other persons, by any means whatsoever, or

''(C) purchase, acquire, or take any security of any other public utility of a value in excess of $10,000,000.

''(2) No holding company in a holding company system that includes an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with an electric utility company, a gas utility company, or a holding company in a holding company system that includes a public-utility company of value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

''(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest. In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction—

''(A) will adequately protect consumer interests,

''(B) will be consistent with competitive wholesale markets,

''(C) will not impair the ability of the Commission or the ability of a State commission having jurisdiction following the completion of the transaction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public,

''(D) will not impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction, and

''(E) satisfies such other criteria as the Commission considers consistent with the public interest.

''(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application.

''(6) For purposes of this subsection, the terms ''associate company'', ''electric utility company'', ''gas utility company'', ''holding company'', ''holding company system'', and ''public-utility company'' have the meaning given those terns in the Public Utility Holding Company Act of 2003.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

SEC. 1182. MARKET-BASED POLICY.

Within six months of the enactment of this section, the Commission shall issue a policy statement establishing the conditions under which public utilities may charge market-based rates for the sale of electric energy subject to the jurisdiction of the Commission. Such policy statement should consider consumer protections and market power, as well as any other factors the Commission may deem necessary, to ensure that such rates are just and reasonable.

SEC. 1183. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) TASK FORCE.—There is established an inter-agency task force, to be known as the ''Electric Energy Market Competition Task Force'' (referred to in this section as the ''task force''), which shall consist of—

(1) one member each from—

(A) the Department of Justice, to be appointed by the Attorney General of the United States;

(B) the Federal Energy Regulatory Commission, to be appointed by the chairman of that Commission;

(C) the Federal Trade Commission, to be appointed by the chairman of that Commission;

(D) the Department of Energy, to be appointed by the Secretary of Energy; and

(E) the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall perform a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) REPORT.—

(A) FINAL REPORT.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.

(B) PUBLIC COMMENT.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.

(c) CONSULTATION.—In performing the study required by this section, the task force shall consult with and solicit comments from its advisory members, the States, representatives of the electric power industry, and the public.

SEC. 1184. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer. If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1185. UNFAIR TRADE PRACTICES.

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1186. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''State regulatory authority'' has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) the tern ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Technical Amendments

SEC. 1191. TECHNICAL AMENDMENTS.

(a) Section 211 (c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking ''(2)';

(2) striking ''(A)'' and inserting ''(1)''';

(3) striking ''(B)'' and inserting ''(2)''; and

(4) striking ''termination of modification'' and inserting ''termination or modification''.

(b) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by striking ''electric utility'' the second time it appears and inserting ''transmitting utility''.

(c) Section 315 (c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking ''subsection'' and inserting ''section''.

SA 1413. Mr. BINGAMAN proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 41, after line 17 strike all that follows through p. 43, line 10, and insert the following:

SEC. ELECTRIC UTILITY MERGERS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b) is amended to read as follows:

''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

''(C) purchase, acquire, or take any security of any other public utility, or

''(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy at retail.

''(2) No holding company in holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

''(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—

''(A) will be consistent with the public interest;

''(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction or is an associate company of any party to the transaction;

''(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect their interest of consumers or the public; and

''(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company.

''(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission Finds that the proposed transaction does not meet the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 90 days.

''(6) For purposes of this subsection, the terms 'associate company', 'electric utility company', 'gas utility company', 'holding company', and 'holding company system' have the meaning given those terms in section 1151 of the Energy Policy Act of 1003.''.

SA 1414. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 197, strike line 3 and all that follows through page 202, line 9, and insert the following:

SEC. 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

''SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that, on a regular basis, procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out, in whole or in part, using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground-granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1), an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other difficulties described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the date of submission of the report under subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''SEC. 6006. USE OF GRANULAR MINE TAILINGS.

''(a) MINE TAILINGS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

''(A) cement or concrete projects; and

''(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

''(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

''(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

''(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

''(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

''(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

''(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle F the following:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

''Sec. 6006. Use of granular mine tailings.''.

SEC. 608. UTILITY ENERGY SERVICE CONTRACTS.

SA 1415. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In Division B, on page 263, after line 18, add the following:

SEC. ___. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

''(l) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the disposal of bagasse.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 1416. Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 35, strike line 10 and all that follows through page 35, line 10, and insert the following:

SEC. 1156. AFFILIATE, ASSOCIATE COMPANY, AND SUBSIDIARY COMPANY TRANSACTIONS.

Section 204 of the Federal Power Act (16 U.S.C. 824c) is amended by adding at the end the following:

''(i) TRANSACTIONS WITH AFFILIATES AND ASSOCIATED COMPANIES.—

''(1) DEFINITIONS.—In this subsection, the terms 'affiliate', 'associate company', 'public utility', and 'subsidiary company' have the meanings given the terms in section 1151 of the Energy Policy Act of 2003.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Commission shall promulgate regulations that shall apply in the case of a transaction between a public utility and an affiliate, associate company, or subsidiary company of the public utility.

''(B) CONTENTS.—At a minimum, the regulations under subparagraph (A) shall require, with respect to a transaction between a public utility and an affiliate, associate company, or subsidiary company of the public utility, that—

''(i) the affiliate, associate company, or subsidiary company shall be an independent, separate, and distinct entity from the public utility;

''(ii) the affiliate, associate company, or subsidiary company shall maintain separate books, accounts, memoranda, and other records and shall prepare separate financial statements;

''(iii)(I) the public utility shall conduct the transaction in a manner that is consistent with transactions among nonaffiliated and nonassociated companies; and

''(II) shall not use its status as a monopoly franchise to confer on the affiliate, associate company, or subsidiary company any unfair competitive advantage;

''(iv) the public utility shall not declare or pay any dividend on any security of the public utility in contravention of such rules as the Commission considers appropriate to protect the financial integrity of the public utility;

''(v) the public utility shall have at least 1 independent director on its board of directors;

''(vi) the affiliate, associate company, or subsidiary company shall not acquire any loan, loan guarantee, or other indebtedness, and shall not structure its governance, in a manner that would permit creditors to have recourse against the assets of the public utility; and

''(vii) the public utility shall not—

''(I) commingle any assets or liabilities of the public utility with any assets or liabilities of the affiliate, associate company, or subsidiary company; or

''(II) pledge or encumber any assets of the public utility on behalf of the affiliate, associate company, or subsidiary company;

''(viii)(I) the public utility shall not cross-subsidize or shift costs from the affiliate, associate company, or subsidiary company to the public utility; and

''(II) the public utility shall disclose and fully value, at the market value or other value specified by the Commission, any assets or services by the public utility that, directly or indirectly, are transferred to, or otherwise provided for the benefit of, the affiliate, associate company, or subsidiary company, in a manner that is consistent with transfers among nonaffiliated and nonassociated companies; and

''(ix) electricity and natural gas consumers and investors shall be protected against the financial risks of public utility diversification and transactions with and among affiliates and associate companies.

''(3) NO PREEMPTION.—This subsection does not preclude or deny the right of any State or political subdivision of a State to adopt and enforce standards for the corporate and financial separation of public utilities that are more stringent that those provided under the regulations under paragraph (2).

''(4) PROHIBITION.—It shall be unlawful for a public utility to enter into or take any step in the performance of any transaction with any affiliate, associate company, or subsidiary company in violation of the regulations under paragraph (2).''.

SA 1417. Mr. DAYTON (for himself, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 30 of the amendment, strike line 24 and all that follows through page 36, line 24.

SA 1418. Mr. BINGAMAN proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 9, line 23 through 24, strike ''including any rule or order of general applicability within the scope of the proposed rulemaking,'' and insert: ''nor any final rule or order of general applicability establishing a standard market design,''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 29, 2003, at 9:30 a.m., in open session to consider the nominations of General Peter J. Schoomaker (Ret.), USA, for appointment as Chief of Staff, U.S. Army and appointment to the grade of general; and Lieutenant General Bryan D. Brown, USA, for appointment as Commander, U.S. Special Operations Command and appointment to the grade of general.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 29, 2003, at 10 a.m., to conduct a hearing on ''Consumer Awareness and Understanding of the Credit Granting Process.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, July 29 at 9 a.m. to examine climate history and its implications, and the science underlying fate, transport, and health effects of mercury emissions. The hearing will be held in SD 406 (hearing room).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 29, 2003, at 9:30 a.m., to hold a hearing on ''Iraq: Status and Prospects for Reconstruction—Resources.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, July 29, 2003, at 9:30 a.m., to consider the nominations of Joe D. Whitley to be General Counsel, Department of Homeland Security; and Penrose C. Albright to be Assistant Secretary for Homeland Security for Plans, Programs, and Budget, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to